Case No. N0190US

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
## BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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| In re Application of: ) | |
| ) | |
| Christopher Dougherty, et al. ) | |
| ) | Examiner Joshua P. Wert |
| Serial No. 10/798,703 ) | |
| ) | Group Art Unit No. 3714 |
| Filing Date: March 11, 2004 ) | |
| ) | |
| For:   COMPUTER GAME ) | |
| DEVELOPMENT FACTORY ) | |
| SYSTEM AND METHOD ) | |

## APPEAL BRIEF (37 CFR § 41.37)

Mail Stop:  Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Appeal Brief is submitted in accordance with 37 CFR § 41.37 and is filed in furtherance of the Notice of Appeal filed September 18, 2009. A request for a one month extension of time is attached.

### I.   Real Party in Interest

The real party in interest is NAVTEQ North America, LLC (formerly Navigation Technologies Corporation), a wholly-owned, indirect subsidiary of Nokia Corporation, a publicly-traded corporation that has its headquarters in Finland.

## II. Related Appeals and Interferences

An appeal brief for a related application, serial number 10/798,632, was filed on April 27, 2009. However, the case was removed from the appeal process by the respective Examiner by mailing a new Final Office Action, dated July 28, 2009. Applicants in that case filed another Notice of Appeal on October 9, 2009.

## III. Status of Claims

1.    Claims 1-25 are present and pending in the application.

2.    Pursuant to the Final Office Action (dated June 18, 2009), claims 1-15, 17-20, and 25 have been finally rejected under 35 U.S.C. §103(a) as being unpatentable over SimCopter (User's Manual for SIM COPTER: Fly Missions In The Metropolis) and SimCity (User's Manual for SIM CITY 2000) in view of MapQuest (MapQuest website print out from 1997). Pursuant to the Final Office Action (dated June 18, 2009), claims 16 and 21-24 have been finally rejected under 35 U.S.C. §103(a) as being unpatentable over SimCopter, SimCity, and Streets of SimCity (Wikipedia print out dated June 16, 2009) in view of MapQuest.

3.    The rejections of claims 1-25 are being appealed.

## IV. Status of Amendments

No amendments were filed subsequent to the final rejection mailed June 18, 2009.

## V.    Summary of Claimed Subject Matter

There are three (3) independent claims involved in this appeal: Claims 1, 21, and 25. In addition, there are twenty-two (22) dependent claims involved in this appeal: Claims 2-20 and 22-24.


Independent claim 1 relates to a method of making computer games (*e.g.*, Figure 2 (reference 101, reference 118, and reference 130), Figure 4 (reference 166), and Figure 5 (reference 300); page 6, line 17 – page 7, line 29; page 9, line 24 – page 10, line 18; and page 13, line 29 – page 14, line 24). The method includes selecting, by a game developer, from an inventory of map database products, a map database that contains data that represents a road network located in a real-world geographic area to be depicted as part of a playing scenario of a computer game (*e.g.*, Figure 2 (reference 130), Figure 3 (reference 160), Figure 5 (reference 324); page 13, line 29 – page 14, line 24). The data that represents the road network includes geographic coordinates of positions of roads and turn restrictions at intersections of the roads (*e.g.*, Figure 1 (reference 100); page 5, lines 3-15; and page 6, lines 17-25). The map database products are provided by a map developer separate from the game developer (*e.g.*, Figure 2 (reference 101 and reference 130), Figure 4 (reference 118 and reference 166), and Figure 5 (reference 300); page 9, lines 24-26; and page 13, line 30 – page 14, line 1). Another step of the method is selecting, by the game developer, from a game shells inventory a game shell data structure that includes basic logic, rules, strategy, and characters for the computer game (*e.g.*, Figure 3 (reference 190), Figure 5 (reference 304 and reference 308); page 14, lines 5-8). The method also includes combining, by the game developer, the map database and the game shell data structure in a computer game product (*e.g.*, Figure 5 (reference 336); page 14, lines 20-22).

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A further step includes providing the computer game product to an end user separate from the game developer and the map developer (*e.g.*, Figure 2 (reference 101, reference 130, and reference 134), Figure 5 (reference 132, reference 134, and reference 340); page 14, lines 23-24).

Independent claim 21 relates to a computer game factory system (*e.g.*, Figure 2 (reference 101 and reference 130), Figure 3 (reference 150); page 7, lines 27-29; page 8, line 14 – page 9, line 23; page 10, line 25 – page 13, line 27). The system includes a map products inventory that contains a plurality of map data products, wherein the map data products represent separate real-world geographic locales to be represented during playing scenarios of the computer games (*e.g.*, Figure 3 (reference 160); page 8, line 23 – page 9, line 23). A portion of the map data products include navigation-related attributes including geographic coordinates of positions of roads, street names of the roads, and turn restrictions at intersections of the roads (*e.g.*, Figure 1 (reference 100), Figure 2 (reference 118); page 5, lines 3-7; page 6, lines 17-31; page 7, lines 21-22). The system also includes a game shells inventory that contains data structures that includes basic logic, rules, strategy, and characters for a type of computer game including a road rally game, a flight simulator game, a "first-person-shooter" game, and an urban development simulator game (*e.g.*, Figure 3 (reference 190); page 12, lines 18-24). Furthermore, the system includes a program that combines one of the map data products and one of the data structures from the game shells inventory to produce a computer game (*e.g.*, Figure 5 (reference 336); page 14, lines 2-3 and lines 20-22). The portion of the map data products are derived from a database suitable for vehicle navigation on roads in the respective real-world geographic locales (*e.g.*, Figure 1 (reference 100), Figure 2 (reference 100); page 6, lines 17-25; page 7, lines 1-7).

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Independent claim 25 relates to a method of facilitating development of computer games (*e.g.*, Figure 2 (reference 101, reference 118, and reference 130), Figure 4 (reference 166), and Figure 5 (reference 300); page 6, line 17 – page 7, line 29; page 9, line 24 – page 10, line 18; and page 13, line 29 – page 14, line 24). The method includes selecting, by a map developer, a locale input indicating a real-world geographic locale (*e.g.*, Figure 4 (reference 168); page 9, lines 24-31). The method also includes selecting, by the map developer, a type input indicating a type of data selected from a group consisting of: auto, pedestrian, bicycle, and aircraft (*e.g.*, Figure 4 (reference 170); page 10, lines 1-2). Another step of the method is selecting, by the map developer, an accuracy level input indicating a level of detail of data (*e.g.*, Figure 4 (reference 172); page 10, lines 3-5). The method further includes querying, by the map developer, a master geographic database as a function of the locale input, the type input, and the accuracy level input (*e.g.*, Figure 2 (reference 100), Figure 4 (reference 100 and reference 173); page 10, lines 6-10). The master geographic database is produced by the map developer and contains data representing a plurality of road segments corresponding to roads of a real-world locale (e.g., Figure 1 (reference 100), Figure 2 (reference 100 and reference 101); page 5, lines 3-7; page 11, lines 4-8; page 15, lines 24-25). The data representing the plurality of road segments are configured to be compiled for navigation-related functions in a navigation device, the data representing the plurality of road segments include navigation-related attributes, the navigation-related attributes include (i) geographic coordinates, (ii) street names, (iii) address ranges, (iv) turn restrictions, and (v) road connectivity (*e.g.*, Figure 2 (reference 102, reference 111, reference 110, and reference 112); page 5, lines 3-7; page 6, line 17 – page 7, line 26; page 11, lines 4-8). Another step of the method includes retrieving, by the map developer, map data from the master geographic database based on the query, the map data being the selected type of data

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representing the selected real-world geographic locale at the selected level of detail (*e.g.*, Figure 4 (reference 100 and reference 173); page 10, lines 6-10). The method also includes providing, by the map developer, the map data to a separate game developer to produce a computer game based on the map data (*e.g.*, Figure 2 (reference 101 and reference 130), Figure 4 (reference 118 and reference 166), and Figure 5 (reference 300); page 9, lines 24-26; and page 13, line 30 – page 14, line 1).

## VI.  Grounds of Rejection to be Reviewed on Appeal

1.      At issue is whether Appellants' claims 1-15, 17-20, and 25 are obvious and unpatentable under 35 U.S.C. §103(a) in view of SimCopter (User's Manual for SIM COPTER: Fly Missions In The Metropolis), SimCity (User's Manual for SIM CITY 2000), and MapQuest (MapQuest website print out from 1997).

2.      At issue is whether Appellants' claims 16 and 21-24 are obvious and unpatentable under 35 U.S.C. §103(a) in view of SimCopter, SimCity, Streets of SimCity (Wikipedia print out dated June 16, 2009), and MapQuest.

## VII.  Argument

1.      The Examiner Erred in Rejecting claims 1-15, 17-20, and 25 as being obvious in view of SimCopter, SimCity, and MapQuest.

Reversal of the Examiner's rejection of claims 1-15, 17-20, and 25 is respectfully requested for the reasons set forth below.

"The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." MPEP § 2142. The Examiner has not provided adequate factual findings or rationale to support clear articulated reason(s) to reject the claims under the legal standard of obviousness.

### (a) *Rejection of Independent Claim 1 and Dependent Claims 2-15 and 17*

Independent claim 1 recites, *inter alia*, "selecting, by a game developer, from an inventory of map database products, a map database that contains data that represents a road network located in a real-world geographic area to be depicted as part of a playing scenario of a computer game, wherein the data that represents the road network includes geographic coordinates of positions of roads and turn restrictions at intersections of the roads, and wherein the map database products are provided by a map developer separate from the game developer," "selecting, by the game developer, from a game shells inventory a game shell data structure that includes basic logic, rules, strategy, and characters for the computer game," "combining, by the game developer, the map database and the game shell data structure in a computer game product," and "providing the computer game product to an end user separate from the game developer and the map developer."

The SimCopter reference discloses a helicopter simulation game that can be played by end users. (SimCopter, page 2, lines 1-7). SimCopter discloses pre-made cities, called career cities, that are included in the game. (SimCopter, page 3, lines 1-11). Also, an end user may develop or build cities via SimCity 2000. (SimCopter, page 3, lines 12-15). City settings may be modified via a settings panel. (SimCopter, page 56, lines 1-4). An end user is able to be a

pilot within the Career Cities or cities built by him or her for game play. (SimCopter, page 3, lines 18-22).

The SimCity reference discloses a city simulation game in which an end user player can become the planner, designer, and mayor of an unlimited number of cities. (SimCity, page 2, column 1, lines 2-3). SimCity discloses a building game that allows an end user to create and try to increase the size of cities. (SimCity, page 2, column 1, lines 20-21). An end user can take over and run any of the included scenario cities (pre-built cities) or build a city from the ground up. (SimCity, page 2, column 1, lines 3-5 and page 10, column 1, lines 11-13).

The MapQuest reference is a one page sheet that discloses a website interface page for end users. (MapQuest, page 1). According to the interface page, there are tabs for maps and a road trip for end users to select. (MapQuest, page 1).

However, even if one of ordinary skill would have combined the references, there is still no teaching or suggestion of selecting, by a game developer, from an inventory of map database products, a map database that contains data that represents features located in a real-world geographic area to be depicted as part of a playing scenario of a computer game in which the game developer is separate from an end user.

On page 2 of the Final Office Action, Examiner Wert asserts that SimCopter discloses the selecting a map. Examiner Wert asserts that an end user game player that plays SimCopter selects a map when selecting a city for game play. Examiner Wert is ignoring the claim limitations that specifically state that a game developer (e.g., the developers of SimCopter or SimCity) selects a map from an inventory of map databases, not the separate end user of the game. SimCopter and SimCity merely disclose that an end user, not a game developer, is able to choose a city to play in for either game.

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On page 2 of the Final Office Action, Examiner Wert asserts that who selects the map database is immaterial to patentability. Applicants respectfully disagree because the specific entities, the steps they implement, and the dynamic between them provide clear claim limitations, which Examiner Wert ignored. The claim limitations refer to a game developer entity (such as the company that produces SimCopter) selecting from an inventory of map databases to create a game for end users, which is different than an end user selecting different cities within the SimCopter game. There is no teaching or suggestion of a game developer selecting a map database from and inventory of map database products.

Furthermore, there is no teaching or suggestion of selecting a game shell data structure from a game shells inventory that includes basic logic, rules, strategy, and characters by the game developer, separate from an end user.

On page 2 of the Final Office Action, Examiner Wert asserts that SimCopter discloses selecting a game shell structure and that it does not matter who does it. However, just because an end user can select a city to use in the SimCopter game and change the settings of the city or game does not mean that the end user is selecting a game shell structure (basic logic, rules, strategy, and characters) from a game shells inventory. Selecting one city over another means the selected city will be used in the game, but the basic logic and rules will be the same because it is still the same game, SimCopter. Also, a mere change in settings does not mean that different game shell structures are selected. The ability to change settings is within the logic and rules of the one game shell structure of the game, SimCopter. There is no teaching or suggestion of selecting a game shell structure from a games shell inventory. Additionally, the claim recites that the game developer, not an end user, selects a game shell data structure from a games shell

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inventory, which is not disclosed by the references. SimCopter merely discloses that an end user player can select a city and change settings.

Also, there is no teaching or suggestion of a game developer combining the selected map database and the selected game shell data structure to form a computer game product and providing the computer game product to an end user of the game. SimCopter and SimCity disclose that end users can choose between cities for playing a game. There is no teaching or suggestion that a computer game product is created by a game developer using the different inventories and provided to an end user.

Additionally, there is no teaching or suggestion of a selected map database that contains data that represents the road network including geographic coordinates of positions of roads and turn restrictions at intersections of the roads.

On page 3 of the Final Office Action, Examiner Wert asserts that it would have been obvious to use the map data from MapQuest to model cities that are selected in SimCopter and SimCity. However, the data available from MapQuest is not suitable for incorporation in a computer game. MapQuest provides (1) graphical maps and (2) routing directions. Map data per se is not downloadable from MapQuest (*i.e.*, the data needed for re-creating a navigable map cannot be downloaded from MapQuest). MapQuest obtains navigable data from a separate map developer (*e.g.*, NAVTEQ) and compiles it into a format suitable for providing map and navigation-related functions. However, the data on the MapQuest site cannot be combined or used in a computer game.

On page 3 of the Final Office Action, Examiner Wert asserts that an end user could look at a map of a city via MapQuest and replicate desired features when modeling a city in SimCity or SimCopter. However, the MapQuest reference does not teach or suggest that data

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representing geographic coordinates would be viewable to an end user using MapQuest. Also, the MapQuest reference does not teach or suggest that data representing turn restrictions would be viewable to an end user using MapQuest. This type of data may be contained behind the scenes to be used for routing and other functions, but there is no teaching or suggestion that an end user would be able to access the data. Furthermore, there is no teaching or suggestion that the SimCopter game or the SimCity game allows end users to enter data of geographic coordinates and/or turn restrictions when playing the respective games.

Additionally, the references do not disclose that map database products of an inventory are provided by a map developer (such as NAVTEQ). There is no teaching or suggestion that the map database products are provided by a third entity that develops maps. The proposed combination of the references merely suggest that end users playing the SimCopter and SimCity games build cities or select cities for game play, and there is no teaching or suggestion of a map developer, not end users or the developers of SimCity or SimCopter, providing map database products for a game developer's inventory.

Claim 1 would not have been obvious in view of the cited references. Accordingly, reversal of the rejection of claim 1 is respectfully requested.

Claims 2-15 and 17 depend, directly or indirectly, from claim 1. The arguments regarding claim 1 appropriately apply to the dependent claims as well. Accordingly, reversal of the rejections of claims 2-15 and 17 is respectfully requested.

### (b) Rejection of Dependent Claim 18

Claim 18 depends from claim 1 via claim 17. The arguments regarding claim 1 appropriately apply to claim 18 as well.

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Furthermore, claim 18 recites, *inter alia*, "wherein the different locales include cities, states, and countries."

Even if one of ordinary skill would have combined the references, there is no teaching or suggestion of map databases in a map database inventory that represent different cities, states, and countries to be selected for creating a game.

On pages 4-5 of the Final Office Action, Examiner Wert asserts that MapQuest includes geographical data related to different locales including cities, states, and countries and that it would be obvious to use the geographic information of states and countries when developing the maps in SimCity. However, SimCity relates to a game that allows an end user to build a city, not a state or a country. There is no teaching or suggestion that one would be allowed to build a map database of a state or a country. SimCity and SimCopter merely disclose the ability for an end user to select or build a city for game play. There is no teaching or suggestion of a map database inventory that has map databases of cities, states, and countries for game development.

Accordingly, reversal of the rejection of claim 18 is respectfully requested.


### (c) Rejection of Dependent Claim 19

Claim 19 depends from claim 1. The arguments regarding claim 1 appropriately apply to claim 19 as well.

Furthermore, claim 19 recites, *inter alia*, "wherein the inventory of map database products includes map databases that represent the real-world geographic area for different purposes, wherein the map databases include: the selected map database containing the data representing the road network including data representing expressways; a pedestrian map database containing data corresponding to pedestrian travel including data representing hiking

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trails; a bicycle map database containing data corresponding to bike travel including data

representing bike paths; and an aircraft map database containing data corresponding to aircraft

travel including data representing airport runways, wherein the selected map database excludes

the data representing the hiking trails and the airport runways, wherein the pedestrian map

database excludes the data representing the expressways and the airport runways, wherein the

bicycle map database excludes the data representing the expressways and the airport runways,

and wherein the aircraft map database excludes the data representing the hiking trails."

Even if one of ordinary skill would have combined the references, there is no teaching or

suggestion of map databases in the map database inventory that represent the same real-world

geographic area for different purposes, such as road network, pedestrian, bicycle, and aircraft, in

which each of the different map databases excludes features of another database.

On page 5 of the Final Office Action, Examiner Wert asserts that MapQuest includes data

related to expressways, hiking trails, bike paths, and airport runways and that it would have been

obvious to create local maps for inclusion of certain features and exclusion of other features.

Firstly, the MapQuest reference is a single page that does not show, teach, or suggest that all the

features (expressways, hiking trails, bike paths, and airport runways) are included or would be

able to be viewed or accessed by an end user. Secondly, just because someone can create

something does not mean that there is prior art disclosing the claimed subject matter or that it

would be obvious to create. Furthermore, the SimCity game and the SimCopter game allow end

users to build or select cities, but there is no teaching or suggestion that the games allow creation

of different map databases that include certain data features and exclude other data features,

especially the claimed limitations. For example, in the cited games, one may not be given the

option to build or select a city with hiking trails or bike paths while excluding expressways or

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roads. Also, SimCity or SimCopter may not even give an end user an option to build certain features, like hiking trials.

Accordingly, reversal of the rejection of claim 19 is respectfully requested.

### (d) Rejection of Dependent Claim 20

Claim 20 depends from claim 1. The arguments regarding claim 1 appropriately apply to claim 20 as well.

Furthermore, claim 20 recites, *inter alia*, "wherein the inventory of map database products includes map databases that represent a locale with different levels of accuracy."

Even if one of ordinary skill would have combined the references, there is no teaching or suggestion of map databases in a map database inventory that represent the same locale with different levels of accuracy to be selected for creating a game.

On page 5 of the Final Office Action, Examiner Wert asserts that it would have been obvious for an end user of SimCity to create different levels of accuracy of a locale based on the amount of time and effort used by an individual. However, just because someone can create something does not mean that there is prior art disclosing the claimed subject matter or that it would be obvious to create. It would not make sense for an end user of SimCity to create multiple versions of a city, such as Chicago, in which each of the versions have different levels of detail. The object of SimCity and SimCopter is to build a city and manage the city and use the city in the helicopter simulation of SimCopter, not have an inventory of the same city at different levels of detail.

Accordingly, reversal of the rejection of claim 20 is respectfully requested.

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*(e) Rejection of Independent Claim 25*

Independent claim 25 recites, *inter alia*, "selecting, by a map developer, a locale input indicating a real-world geographic locale," "selecting, by the map developer, a type input indicating a type of data selected from a group consisting of: auto, pedestrian, bicycle, and aircraft," "selecting, by the map developer, an accuracy level input indicating a level of detail of data," "querying, by the map developer, a master geographic database as a function of the locale input, the type input, and the accuracy level input, the master geographic database produced by the map developer and containing data representing a plurality of road segments corresponding to roads of a real-world locale, wherein the data representing the plurality of road segments are configured to be compiled for navigation-related functions in a navigation device, the data representing the plurality of road segments include navigation-related attributes, the navigation-related attributes include (i) geographic coordinates, (ii) street names, (iii) address ranges, (iv) turn restrictions, and (v) road connectivity," "retrieving, by the map developer, map data from the master geographic database based on the query, the map data being the selected type of data representing the selected real-world geographic locale at the selected level of detail," and "providing, by the map developer, the map data to a separate game developer to produce a computer game based on the map data."

The SimCopter reference discloses a helicopter simulation game that can be played by end users. (SimCopter, page 2, lines 1-7). SimCopter discloses pre-made cities, called career cities, that are included in the game. (SimCopter, page 3, lines 1-11). Also, an end user may develop or build cities via SimCity 2000. (SimCopter, page 3, lines 12-15). City settings may be modified via a settings panel. (SimCopter, page 56, lines 1-4). An end user is able to be a

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pilot within the Career Cities or cities built by him or her for game play. (SimCopter, page 3, lines 18-22).

The SimCity reference discloses a city simulation game in which an end user player can become the planner, designer, and mayor of a city. (SimCity, page 2, column 1, lines 2-3). SimCity discloses a building game that allows an end user to create and try to increase the size of cities. (SimCity, page 2, column 1, lines 20-21). An end user can take over and run any of the included scenario cities (pre-built cities) or build a city from the ground up. (SimCity, page 2, column 1, lines 3-5 and page 10, column 1, lines 11-13).

The MapQuest reference is a one page sheet that discloses a website interface page for end users. (MapQuest, page 1). According to the interface page, there are tabs for maps and a road trip for end users to select. (MapQuest, page 1).

However, even if one of ordinary skill would have combined the references, there is no teaching or suggestion of a map developer (which produces the recited master geographic database) that selects a locale input, a type input, and an accuracy level input to query its own master geographic database.

On page 6 of the Final Office Action, Examiner Wert asserts that an end user using MapQuest would disclose those missing features. However, an end user using MapQuest is not the same as a map developer (that has produced a master geographic database including data of road segments with navigation-related attributes) accessing its own master geographic database by selecting a locale input, a type input, and a accuracy level input to retrieve data for game development. MapQuest merely provides an end user's experience, not the map developer's operation to facilitate the creation of games.

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Furthermore, the cited references do not teach or suggest selecting, by the map developer, an accuracy level input indicating a level of detail of data to query the master geographic database and retrieving map data at the selected level of detail based on the query.

On page 6 of the Final Office Action, Examiner Wert asserts that a zoom function in MapQuest would disclose the accuracy level selection and query. However, the operations of an end user (such as using MapQuest or playing SimCopter) are not the same as a map developer, which produces a master geographic database, providing map data to a game developer, such as the developers of SimCity or SimCopter.

Claim 25 would not have been obvious in view of the cited references. Accordingly, reversal of the rejection of claim 25 is respectfully requested.

2.    The Examiner Erred in Rejecting claims 16 and 21-24 as being obvious in view of SimCopter, SimCity, Streets of SimCity, and MapQuest.

Reversal of the Examiner's rejection of claims 16 and 21-24 is respectfully requested for the reasons set forth below.

"The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." MPEP § 2142. The Examiner has not provided adequate factual findings or rationale to support clear articulated reason(s) to reject the claims under the legal standard of obviousness.

*(a) Rejection of Independent Claim 21 and Dependent Claims 22-24*

Independent claim 21 recites, *inter alia*, "a map products inventory that contains a

plurality of map data products, wherein the map data products represent separate real-world

geographic locales to be represented during playing scenarios of the computer games, and

wherein a portion of the map data products include navigation-related attributes including

geographic coordinates of positions of roads, street names of the roads, and turn restrictions at

intersections of the roads," "a game shells inventory that contains data structures that includes

basic logic, rules, strategy, and characters for a type of computer game including a road rally

game, a flight simulator game, a "first-person-shooter" game, and an urban development

simulator game," and "a program that combines one of the map data products and one of the data

structures from the game shells inventory to produce a computer game, wherein the portion of

the map data products are derived from a database suitable for vehicle navigation on roads in the

respective real-world geographic locales."

The SimCopter reference discloses a helicopter simulation game that can be played by

end users. (SimCopter, page 2, lines 1-7). SimCopter discloses pre-made cities, called career

cities, that are included in the game. (SimCopter, page 3, lines 1-11). Also, an end user may

develop or build cities via SimCity 2000. (SimCopter, page 3, lines 12-15). City settings may

be modified via a settings panel. (SimCopter, page 56, lines 1-4). An end user is able to be a

pilot within the Career Cities or cities built by him or her for game play. (SimCopter, page 3,

lines 18-22).

The SimCity reference discloses a city simulation game in which an end user player can

become the planner, designer, and mayor of an unlimited number of cities. (SimCity, page 2,

column 1, lines 2-3). SimCity discloses a building game that allows an end user to create and try

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to increase the size of cities. (SimCity, page 2, column 1, lines 20-21). An end user can take over and run any of the included scenario cities (pre-built cities) or build a city from the ground up. (SimCity, page 2, column 1, lines 3-5 and page 10, column 1, lines 11-13).

The Streets of SimCity reference discloses information about the Streets of SimCity game released in 1997. (Streets of SimCity, page 1, lines 1-9). The Streets of SimCity game is a racing and vehicular combat computer game. (Streets of SimCity, page 1, lines 1-3). A player's vehicle can be controlled to explore any cities created in SimCity 2000. (Streets of SimCity, page 1, lines 3-6).

The MapQuest reference is a one page sheet that discloses a website interface page for end users. (MapQuest, page 1). According to the interface page, there are tabs for maps and a road trip for end users to select. (MapQuest, page 1).

However, even if one of ordinary skill would have combined the references, there is no teaching or suggestion of a map products inventory that contains a plurality of map data products to be selected to produce computer games, wherein the map data products represent separate real-world geographic locales to be represented during playing scenarios of the computer games, and wherein a portion of the map data products include navigation-related attributes including geographic coordinates of positions of roads, street names of the roads, and turn restrictions at intersections of the roads.

On pages 7-8 of the Final Office Action, Examiner Wert asserts that it would have been obvious to use the map data from MapQuest to model cities that are selected in SimCopter and SimCity. However, the data available from MapQuest is not suitable for incorporation in a computer game. MapQuest provides (1) graphical maps and (2) routing directions. Map data per se is not downloadable from MapQuest (*i.e.*, the data needed for re-creating a navigable map

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cannot be downloaded from MapQuest). MapQuest obtains navigable data from a separate map developer (*e.g.*, NAVTEQ) and compiles it into a format suitable for providing map and navigation-related functions. However, the data on the MapQuest site cannot be combined or used in a computer game.

On page 8 of the Final Office Action, Examiner Wert asserts that an end user could look at a map of a city via MapQuest and replicate desired features when modeling a city in SimCity or SimCopter. However, the MapQuest reference does not teach or suggest that data representing geographic coordinates of positions of roads would be viewable to an end user using MapQuest. Also, the MapQuest reference does not teach or suggest that data representing turn restrictions at intersections of roads would be viewable to an end user using MapQuest. This type of data may be contained behind the scenes to be used for routing and other functions, but there is no teaching or suggestion that an end user would be able to access the data. Furthermore, there is no teaching or suggestion that the SimCopter game, the Streets of SimCity game, or the SimCity game allows end users to enter data of geographic coordinates and/or turn restrictions when playing the respective games.

Furthermore, there is no teaching or suggestion of a games shell inventory that contains data structures that includes basic logic, rules, strategy, and characters for a type of computer game including a road rally game, a flight simulator game, a "first-person-shooter" game, and an urban development simulator game.

On page 7 of the Final Office Action, Examiner Wert asserts that in addition to the game shell of SimCopter, there is a game shell for Streets of SimCity that can use cities built via SimCity. However, the references merely disclose that there are two different games for end users to play using cities from SimCity. An end user playing one game and then playing another

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game is not the same as having a games shell inventory to select from to produce a computer game. The references merely show that two different game products exist, not an actual games shell inventory to actually produce the two different game products.

Furthermore, there is no teaching or suggestion of game shells for a road rally game, a flight simulator game, a "first-person-shooter" game, and an urban development simulator game. For example, there is at least no teaching or suggestion of a game shell of a "first-person-shooter" game. On page 7 of the Final Office Action, Examiner Wert asserts that shooting in the first person discloses a "first-person-shooter" game without pointing to the Streets of SimCity reference. The Streets of SimCity game may not allow one to play in a first-person shooter arrangement.

Additionally, there is no teaching or suggestion of a program that combines one of the map data products and one of the data structures from the games shell inventory to produce a computer game. The references disclose that a city built using SimCity can be used in SimCopter or Streets of SimCity. However, that is not the same as producing a computer game. End users playing computers games using different cities are not producing the computer game, they are just playing the computer game. The development of the computer game has been completed before the end user starts to play the game. Just because an end user is given the ability to change cities or settings in the computer game does not mean the end user is actually developing the computer game he or she is playing.

Claim 21 would not have been obvious in view of the cited references. Accordingly, reversal of the rejection of claim 21 is respectfully requested.

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Claims 22-24 depend from claim 21. The arguments regarding claim 21 appropriately apply to the dependent claims as well. Accordingly, reversal of the rejections of claims 22-24 is respectfully requested.

### (b) Rejection of Dependent Claim 16

Claim 16 depends from claim 1. The arguments regarding claim 1 appropriately apply to claim 16 as well.

Furthermore, claim 16 recites, *inter alia*, "wherein the game shells inventory includes basic logic, rules, strategy, and characters for a type of computer game including a road rally game, a police chase game, a location quiz game, a "bot" fighter game, a flight simulator game, a "first-person-shooter" game, an auto theft game, and an urban development simulator game."

Even if one of ordinary skill would have combined the references, there is no teaching or suggestion of a game developer selecting a game shell data structure from a games shell inventory that includes basic logic, rules, strategy, and characters for all of the recited computer games (specifically, a road rally game, a police chase game, a location quiz game, a "bot" fighter game, a flight simulator game, a "first-person-shooter" game, an auto theft game, and an urban development simulator game) to create a computer game for an end user to play.

On page 7 of the Final Office Action, Examiner Wert asserts that in addition to the game shell of SimCopter, there is a game shell for Streets of SimCity that can use cities built via SimCity. However, the references merely disclose that there are two different games for end users to play using cities from SimCity. An end user playing one game and then playing another game is not the same as a game developer selecting from an inventory of game shells to create a game for end users.
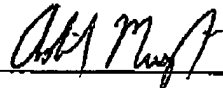
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Furthermore, there is no teaching or suggestion of game shells for a road rally game, a police chase game, a location quiz game, a "bot" fighter game, a flight simulator game, a "first-person-shooter" game, an auto theft game, and an urban development simulator game. For example, there is at least no teaching or suggestion of a game shell of a location quiz game or a "first-person-shooter" game. On page 7 of the Final Office Action, Examiner Wert simply mentions that a player figuring out where to deliver packages is a location quiz game (which is erroneous), without specifically citing to a certain portion of the Streets of SimCity reference. Also, Examiner Wert asserts that shooting in the first person discloses a "first-person-shooter" game without pointing to the Streets of SimCity reference. The Streets of SimCity game may not allow one to play in a first-person shooter arrangement.

Accordingly, reversal of the rejection of claim 16 is respectfully requested.

## Conclusion

Appellants respectfully submit that the rejections of claims 1-25 raised by the Examiner were in error for at least the reasons set forth above. Accordingly, reversal of all grounds of rejection is respectfully requested.

Respectfully submitted,

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## VIII. Claims Appendix

1.    A method of making computer games, the method comprising:

selecting, by a game developer, from an inventory of map database products, a map database that contains data that represents a road network located in a real-world geographic area to be depicted as part of a playing scenario of a computer game, wherein the data that represents the road network includes geographic coordinates of positions of roads and turn restrictions at intersections of the roads, and wherein the map database products are provided by a map developer separate from the game developer;

selecting, by the game developer, from a game shells inventory a game shell data structure that includes basic logic, rules, strategy, and characters for the computer game;

combining, by the game developer, the map database and the game shell data structure in a computer game product; and

providing the computer game product to an end user separate from the game developer and the map developer.

2.    The method of claim 1 further comprising:

selecting from an inventory of road models, road models data that contains data representations used for visual appearance and rendering of road-related things.

3.    The method of claim 2 wherein the road-related things include at least one selected from a group consisting of: road colors, road pavement, lane stripes, curbs, sidewalks, signs, lampposts, lane dividers, traffic signals, speed bumps, and crosswalks.

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4.     The method of claim 1 further comprising:

        selecting from an inventory of 3D models, 3D models data that contains data

representations used for visual appearance and rendering of cityscape and landscape-

related things.

5.     The method of claim 4 wherein the cityscape and landscape-related things include at least

one selected from a group consisting of: buildings, fences, trees, shrubbery, lawns,

fences, clouds, and scenery.

6.     The method of claim 1 further comprising:

        selecting game engines from an inventory, wherein the game engines are

programs that perform specific tasks and operate on an as-needed basis during game play.

7.     The method of claim 6 wherein the game engines include at least one selected from a

group consisting of: audio engines, logic engines, rules engines, animation engines,

graphics engines, and user interface engines.

8.     The method of claim 1 further comprising:

        combining the map database and the game shell data structure with a geographic

application programming interface in the computer game product.

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9.    The method of claim 8 wherein the geographic application programming interface includes a set of queries by which game engine components in the computer game can request geographic data from the map database.

10.    The method of claim 8 wherein the geographic application programming interface provides for spatial queries for geographic data from the map database by components of the computer game.

11.    The method of claim 1 further comprising:

combining the map database and the game shell data structure with geographic data tools programs in the computer game product.

12.    The method of claim 11 wherein the geographic data tools programs include an integration function that combines road model data with data from the map database.

13.    The method of claim 11 wherein the geographic data tools programs include a 3D conversion function that provides for conversion of data from the map database for presentation in a perspective view.

14.    The method of claim 1 further comprising:

referring to parameters associated with a platform on which the computer game will be installed, wherein the parameters are obtained from a repository that contains a plurality of sets of parameters associated with different computer platforms.

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15.    The method of claim 14 wherein the repository includes sets of parameters associated

with computer platforms selected from a group consisting of: personal computers, game

consoles, cell phones, hand held devices, and networks.

16.    The method of claim 1 wherein the game shells inventory includes basic logic, rules,

strategy, and characters for a type of computer game including a road rally game, a police

chase game, a location quiz game, a "bot" fighter game, a flight simulator game, a "first-

person-shooter" game, an auto theft game, and an urban development simulator game.

17.    The method of claim 1 wherein the inventory of map database products includes map

databases that represent different locales.

18.    The method of claim 17 wherein the different locales include cities, states, and countries.

19.    The method of claim 1 wherein the inventory of map database products includes map

databases that represent the real-world geographic area for different purposes, wherein

the map databases include:

the selected map database containing the data representing the road network

including data representing expressways;

a pedestrian map database containing data corresponding to pedestrian travel

including data representing hiking trails;

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a bicycle map database containing data corresponding to bike travel including data representing bike paths; and

an aircraft map database containing data corresponding to aircraft travel including data representing airport runways,

wherein the selected map database excludes the data representing the hiking trails and the airport runways,

wherein the pedestrian map database excludes the data representing the expressways and the airport runways,

wherein the bicycle map database excludes the data representing the expressways and the airport runways, and

wherein the aircraft map database excludes the data representing the hiking trails.

20. The method of claim 1 wherein the inventory of map database products includes map databases that represent a locale with different levels of accuracy.

21. A computer game factory system comprising:

a map products inventory that contains a plurality of map data products, wherein the map data products represent separate real-world geographic locales to be represented during playing scenarios of the computer games, and wherein a portion of the map data products include navigation-related attributes including geographic coordinates of positions of roads, street names of the roads, and turn restrictions at intersections of the roads;

a game shells inventory that contains data structures that includes basic logic, rules, strategy, and characters for a type of computer game including a road rally game, a flight simulator game, a "first-person-shooter" game, and an urban development simulator game; and

a program that combines one of the map data products and one of the data structures from the game shells inventory to produce a computer game,

wherein the portion of the map data products are derived from a database suitable for vehicle navigation on roads in the respective real-world geographic locales.

22.    The system of claim 21 further comprising:

a road models inventory that contains data representations used for visual appearance and rendering of road-related things, wherein the program combines one of the data representations used for visual appearance and rendering of road-related things with the one of the map data products and the one of the data structures from the games shells inventory to produce the computer game.

23.    The system of claim 21 further comprising:

a 3D models inventory that contains data representations used for visual appearance and rendering of cityscape and landscape-related things, wherein the program combines one of the data representations used for visual appearance and rendering of cityscape and landscape-related things with the one of the map data products and the one of the data structures from the games shells inventory to produce the computer game.

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24. The system of claim 21 further comprising:

a game engines inventory that contains software engine programs that perform specific, regularly performed tasks and that operate on an as-needed basis during game play; wherein the program combines software engine programs with the one of the map data products and the one of the data structures from the games shells inventory to produce the computer game.

25. A method of facilitating development of computer games, the method comprising:

selecting, by a map developer, a locale input indicating a real-world geographic locale;

selecting, by the map developer, a type input indicating a type of data selected from a group consisting of: auto, pedestrian, bicycle, and aircraft;

selecting, by the map developer, an accuracy level input indicating a level of detail of data;

querying, by the map developer, a master geographic database as a function of the locale input, the type input, and the accuracy level input, the master geographic database produced by the map developer and containing data representing a plurality of road segments corresponding to roads of a real-world locale, wherein the data representing the plurality of road segments are configured to be compiled for navigation-related functions in a navigation device, the data representing the plurality of road segments include navigation-related attributes, the navigation-related attributes include

(i) geographic coordinates,

(ii) street names,

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(iii)     address ranges,

(iv)     turn restrictions, and

(v)      road connectivity;

retrieving, by the map developer, map data from the master geographic database based on the query, the map data being the selected type of data representing the selected real-world geographic locale at the selected level of detail; and

providing, by the map developer, the map data to a separate game developer to produce a computer game based on the map data.

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## IX.   Evidence Appendix

None

## X.   Related Proceedings Appendix

None